

PTO/SB/26 (06-04)

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
021123-0308138

In re Application of: Caroline KREUTZER et al

Application No.: 10/804,120

Filed: March 19, 2004

For: L-Lysine Producing Corynebactera and Process for the Preparation of L-Lysine

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JAN 30 2006

The owner, Dagussa AG and Forschungszentrum Julich GmbH, of equal (50/50) percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,851,246 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 40,944



Signature

January 30, 2006

Date

Thomas A. Cawley, Jr., Ph.D.

Typed or printed name

703 770 7944

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/06 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)

Approved for use through 07/31/2006 OMB 0851-0032  
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Effective on 12/08/2004  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL  
for FY 2005**☐ Applicant claims small entity status See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**130****Complete if Known**

Application Number	10/804,120
Filing Date	March 19, 2004
First Named Inventor	CAROLINE KREUTZER
Examiner Name	James S. Ketter
Art Unit	1636
Attorney Docket No.	021123-0308136

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**METHOD OF PAYMENT (check all that apply)**

- ☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) \_\_\_\_\_
- ☒ Deposit Account Deposit Account Number **033975** Deposit Account Name **PILLSBURY WINTHROP SHAW PITTMAN LLP**
- For the above identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below except for the filing fee
- ☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.18 and 1.17 ☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fee Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150 <del>100</del>	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES**

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

**Total Claims** - 20 or HP = **Extra Claims**  $\times$  **Fee (\$)** = **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20

**Indep. Claims** - 3 or HP = **Extra Claims**  $\times$  **Fee (\$)** = **Fee Paid (\$)**

HP = highest number of independent claims paid for, if greater than 3

**Multiple Dependent Claims**  $\times$  **Fee (\$)** = **Fee Paid (\$)**

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.18(a).

**Total Sheets** - 100 = **Extra Sheets**  $\times$  **Number of each additional 50 or fraction thereof**  $\times$  **Fee (\$)** = **Fee Paid (\$)**

(round up to a whole number)  $\times$  **250.00**

**4. OTHER FEE(S)**

Non-English Specification, 130 fee (no small entity discount)

Other: **Terminal Disclaimer**

Fee Paid (\$)

**130.00**

<b>SUBMITTED BY</b>		<b>Registration No.</b>	<b>Telephone</b>
Signature <i>Thomas A. Cawley, Jr.</i>		<b>40,944</b>	<b>703.770.7944</b>
Name (Print/Type) <b>Thomas A. Cawley, Jr., Ph.D.</b>		<b>Date</b>	<b>January 30, 2006</b>

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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